

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Spain, Cameron, Cunningham, DiDonna, Voigt, Olvany

STAFF ATTENDING: Ginsberg, Keating (arrived at 9 P.M.)

RECORDER: Syat, Channel 79

---

Mr. Spain read the first agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Coastal Site Plan Review #292, Land Filling & Regrading Application #312, 99 Wit's End LLC, 99 Long Neck Point Road.** Proposing to raze the existing residence and construct a new single-family residence with associated filling/excavation and regrading work and retaining wall, and perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road approximately 1,300 feet north of its intersection with Pear Tree Point Road, and is shown on Assessor's Map #59 as Lot #1 in the R-1 Zone.

Attorney Wilder Gleason was present on behalf of the applicant, and explained that the subject property is 1.27 acres in an R-1 Zone. It is a gently sloping property to about 100 feet from Mean High Water. There are three general levels of the property: it's generally flat near the water; there is a steep slope near the grass; and an upper area where the house is to be constructed. The old house near the north property was recently removed. They propose to construct a new five bedroom house and a new driveway. The new driveway will improve sight lines over the previous driveway. They will be installing a geothermal heat system with a propane backup. They will be abandoning the existing septic system and connecting to the public sewer in Long Neck Point Road. Stormwater management has been proposed by the applicant. All water runoff will still flow towards Long Island Sound to the east.

Mr. Gleason explained that they propose to construct a two to three foot high retaining wall to allow the creation of yard space at the top of the ridge. He mentioned that the existing steps down to the water will be repaired and they will also be replacing the existing door. He noted that in response to a question, debris near the water can and will be removed. He said that only some of the work within this application will be within 100 feet of Mean High Water. The proposed driveway will have a 10% grade. The current driveway exceeds that so the new driveway will be an improvement. The driveway will be fairly flat near the road.

There were no members of the general public present to comment on the application. There were no further questions or comments from Commission members. Mr. Cunningham then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Olvany and unanimously approved.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 2 OF 11

Mr. Spain read the next agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #290, Flood Damage Prevention Application #333, Land Filling & Regrading Application #310, ASL Partners, LLC, 203 Long Neck Point Road.** Proposal to demolish the existing single-family residence and construct a new single-family residence with pool, and perform related site activities within regulated areas. The subject property is located on the east side of Long Neck Point Road approximately 1,200 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #9 in the R-1 Zone. ***PUBLIC HEARING OPENED ON JULY 30, 2013.***

Attorney Robert F. Maslan Jr. was present on behalf of the applicant. Mr. Maslan explained that revised plans were prepared by McChord Engineering, which show a proposed rain garden. They also prepared site sections. Professional Engineer Steve McAlister from McChord Engineering was present and explained that they proposed to install a rain garden along the south property line. He then referred to plans SE-1 and DT-1 with a revision date of October 11, 2013. The rain garden will be about eight feet from the property line. Ms. Cameron asked what would happen if the proposed drainage is not maintained. Ms. Cameron also said that she agrees with the arborist that most of the trees to be removed are not valuable trees. Landscape Architect Troy Sober then reviewed plans L3.00 with a revision date of 9-17-2013. He noted that the applicant proposes to install a mix of trees and shrubs on the property to replace the trees to be removed.

Architect Robert Bucher of Wadia Associates then described the right of way and showed the small flight of stairs near the north property line and the proposed access for Mrs. Daley to the north. Mr. Maslan explained that the proposed stone wall along the north property line has been cut back over the prior plan and it cuts off completely at the CAM line. He then showed the location of the AE and V Flood Zone lines on the plan. He noted that they may need DEEP approval to fix the existing sea wall. Mr. Sober explained that it will be manicured lawn towards the water in future as it is now. In response to a question from a Commission member, Mr. Ginsberg noted that the ZBA made an interpretation regarding the proposed house that, as designed, it complies with building height. The existing house now at 203 Long Neck Point Road is too high and does not comply with building height. Mr. Bucher noted that the wall at Section A has been reduced from 8 feet high to 6 feet high between the first and second meeting on this matter. Mr. Ginsberg noted that the applicant will need a street opening permit and a sewer connection permit for the new house and driveway. Mr. Olvany referenced the new gate at the bottom of the stairs along the north property line. Mr. Maslan responded that that will be four feet wide based on Sheet L4 of the plans. Mr. Wadia noted that they could make it wider if the Commission decided that was necessary.

There were no questions or comments from members of the general public. There being no further questions or comments from the Commission, Mr. Olvany made a motion to close the public hearing on this matter. That motion was seconded by Ms. Cameron and unanimously approved.

Mr. Spain read the next agenda item:

**Continuation of Public Hearing regarding Proposed Amendments to the Zoning Regulations (COZR #3-2013) put forth by the Darien Planning & Zoning Commission** as outlined in a June 17, 2013 memo from Jeremy Ginsberg. These proposed changes include: Amendments related to

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 3 OF 11

Personal Service Businesses: Modify Section 210—Definition of Commercial Sales and Service; Add subsections 604d, 614g, 634g, 654f, and 684j., to specifically call out Personal Service Business as a Special Permit use in certain zones.

Other proposed changes are amendments recommended by the Zoning Board of Appeals (ZBA): 1. Modify Section 210 (Definition of Building Coverage) by noting that the first six inches (6”) of building eave, and up to twenty (20) square feet for overhangs for stairs, stair landings, and stoops do not count toward Building Coverage. Delete subsection 416h. Modify subsection 351 (Porches) to better reflect current policy of acceptable size covered front porches which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 354 (Stairs and Ramps) to better reflect current policy of acceptable size entry stairs which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 1126b (General Rules of the Zoning Board of Appeals) regarding submitted application materials. Modify subsection 1126e (General Rules of the Zoning Board of Appeals) regarding reapplications to the ZBA. Modify subsection 1127 (Notification-ZBA) to have proof of mailing submitted one week prior to the public hearing.

Other proposed changes are amendments recommended by the Architectural Review Board (ARB): Modify subsections 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones; Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones; Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones; Modify subsection 925.2b, regarding wall signs in the OB, DOR-1 and DOR-5 Zones; Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones. ***PUBLIC HEARING OPENED ON JULY 30, 2013.***

Commission members discussed various proposed changes to the Zoning Regulations. They noted that personal service is usually doing something directly for a consumer, but not having a tangible product. Training sessions for individuals or very small groups in yoga or other matters are different than having classes where one or two instructors would be taking care of many clients at the same time. Personal services should no longer be lumped with commercial sales and services to make sure that the distinction is more clear. Personal services might be appropriate within the commercial zones, but would need a Special Permit, rather than being allowed by right. This would allow for Commission review based upon the specific circumstances.

Commission members then discussed the definition of Building Coverage. Recent amendments to the Regulations regarding the Noroton Bay residential neighborhood (R-NBD) allow the first six inches of eave or overhang not to count towards building coverage and allow no more than 20 square feet of roof area covering an entrance doorway not to count towards Building Coverage. The Commission felt that it would be appropriate to extend those provisions to the rest of the residential zones in Darien.

With respect to the Regulations concerning porches, stairs and ramps, the sentences within the exceptions listed in Section 351 need to be rearranged to make it more clear, and to better clarify long-time policy within the Department.

The Zoning Board of Appeals (ZBA) application process was then discussed. The Zoning Board of Appeals needs to be given authority to waive some of the requirements based on the individual applications which vary with respect to type and complexity. It should also be made clear that an updated survey map must be no more than 18 months old. Also, application to the Zoning Board of Appeals would be allowed within not less than 6 months to comply with the State Statutes.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 4 OF 11

Mr. Ginsberg also explained the proposed changes to the sign regulations, allowing larger sign letters in certain circumstances.

There were no comments from the public regarding the proposed amendments to the Zoning Regulations.

The following motion was made: That the Planning & Zoning Commission close the public hearing regarding the proposed amendments and render a decision in the future. The motion was made by Mr. Cunningham, seconded by Mr. Olvany and unanimously approved.

Chairman Spain then read the following agenda item:

**GENERAL MEETING**

*Deliberation and possible decision on the following:*

**Coastal Site Plan Review #291, Land Filling & Regrading Application #311, John & Charlotte Suhler, 200 Long Neck Point Road.** Proposal to construct a new single-family residence, and perform related site development activities within a regulated area. The subject property is located on the west side of Long Neck Point Road approximately 1,400 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #18C in the R-1 Zone.

*PUBLIC HEARING CLOSED ON 10-1-2013.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolutions aloud because each member has had an opportunity to read the drafts prior to the meeting. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved.

The Commission members discussed the draft resolution. They noted that it affects their previous discussions. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron, seconded by Mr. Cunningham and unanimously approved. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
October 15, 2013**

Application Number: Coastal Site Plan Review #291  
Land Filling & Regrading Application #311

Street Address: 200 Long Neck Point Road  
Assessor's Map #61 Lot #18C

Name and Address of Applicant: John & Charlotte Suhler

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 5 OF 11

and Property Owner: 200 Long Neck Point Road  
Darien, CT 06820

Name and Address of: Douglas VanderHorn  
Applicant's Representative: Douglas VanderHorn Architects  
31 East Elm Street  
Greenwich, CT 06830

Activity Being Applied For: Proposal to construct a new single-family residence, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the west side of Long Neck Point Road approximately 1,400 feet south of its southernmost intersection with Pear Tree Point Road.

Zone: R-1

Date of Public Hearing: October 8, 2013

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: September 27 & October 4, 2013 Newspaper: Darien News

Date of Action: October 15, 2013 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News  
October 25, 2013

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application is to construct a new single-family residence, and perform related site development activities within a regulated area. The new residence will be served by public water and sewer.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 6 OF 11

2. The subject property is directly adjacent to Long Island Sound. As part of a previous permit, a 100 foot wide open space/conservation easement was established along the westerly portion of the site and adjacent to Long Island Sound. The applicant has worked with the Environmental Protection Commission to replant and restore that open space/conservation easement area. An October 4, 2013 memorandum from the Wetland Protection Officer indicates that the easement has been satisfactorily restored and replanted.
3. A rain garden has been proposed to address stormwater management and water quality. The Commission notes the need for the applicant's engineer to prepare a Drainage Maintenance Plan, and file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Sections 850 and 1000.
5. The Commission finds that the proposed activities with respect to the proposed addition to the residence, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
7. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #291 and Land Filling & Regrading Application #311 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, filling and regrading, and other site development activity shall be in accordance with the following plans submitted and reviewed by the Commission:
  - Topographic & Zoning Location Survey depicting Proposed Conditions 200 Long Neck Point Road prepared for John Suhler, by William W. Seymour & Associates, dated May 10, 2013 and revised June 18, 2013.
  - Site Development Plan 200 Long Neck Point Road by McChord Engineering Associates, last revised 6-21-13.
  - Permit Set Planting Plan, Suhler Residence 200 Long Neck Point Road by Wilber & King, scale 1/16" = 1', dated July 8, 2013.
  - 8-1/2" x 11" submittal at 10-8-2013 public hearing. "Proposed temporary sediment basin. Convert to permanent rain garden at completion of project." (2 pages).
- B. Due to the nature and location of this project, the Commission hereby waives the requirement for a performance bond.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 7 OF 11

- C. Because of this property's location directly adjacent to Long Island Sound, the Commission hereby waives the requirement for a more detailed stormwater management analysis. The Commission is hereby requiring the installation of a rain garden as shown on the plans submitted at the October 8, 2013 public hearing. A proposed level spreader is shown near the south property line. It is imperative that grading in this area be carefully implemented, so as not to direct water to the property to the south, but rather to the west, towards Long Island Sound.
- D. As noted at the public hearing, and as shown on the submitted Planting Plan, the property owner will be installing plantings throughout the property. As shown on the submitted (and approved) plans, there will be short shrubs planted along the Long Neck Point Road frontage, and higher shrubs lining the driveway.
- E. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the plans in Condition A, above, and other measures as may be necessary due to site conditions, including tree protection. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. By December 15, 2013 (within the next 60 days), a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 200 Long Neck Point Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the proposed new house.
- G. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the residence, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading and stormwater management have been completed in compliance with the approved plans referred to in Condition A, above.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 8 OF 11

- I. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, approval from the Public Works Department for a Street Opening Permit for the new driveway on Long Neck Point Road.
- J. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (October 15, 2014).

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning or Building Permit, or this approval shall become null and void.

Mr. Spain and Mr. DiDonna recused themselves from the following item and departed the meeting room to avoid any perception of a conflict of interest.

Ms. Cameron read the following agenda item:

*Deliberation only on the following pending matters:*

**Proposed Amendments to the Zoning Regulations (COZR #4-2013) put forth by the Tokeneke Club, Inc.** Proposal to modify the definition of Building Coverage in Section 210 of the Darien Zoning Regulations. This change would include only the first and largest court of any pervious tennis or recreational court in the calculation of "Building Coverage" for lots in commercial zones or special permit uses on lots in residential zones.

Ms. Cameron said that she really does not like the exception as drafted. She noted that building coverage is not the same as impervious surface. Sports courts, such as paddle tennis courts, are structures per the Regulations and need to meet the setback requirements and require Special Permit approval. Mr. Olvany said that the 20% building coverage should only include "buildings" that have walls and a roof and then there should be a separate limitation on the total amount of impervious area or site developed area on a property. He said that paddle tennis courts are definitely structures like the same that a deck is a structure and he noted that pools and tennis courts down in the ground do need to comply with the setback regulations but they are not really buildings. Ms. Cameron said that she appreciates the Tokeneke Beach Club's problems and issues, and also understands that they may or may not be successful with a Zoning Board of Appeals application. She said that it might be appropriate to eliminate all at-grade tennis courts from the building coverage calculations and establish a separate regulation for total site developed area. That type of change would need a new public hearing and discussion by the entire Commission because it would affect many properties, not just the Tokeneke Beach Club. Commission members thought that it might be appropriate to approve the application as currently submitted and then reconsider the bigger issue of site developed area with the entire Commission. Imposing a new restriction on site developed area would be a major step.

Mr. Spain and Mr. DiDonna returned to the meeting room. Mr. Spain read the following agenda item:



PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 9 OF 11

**Court-ordered remand regarding Affordable Housing Application Under CGS 8-30g (#1-2010), Site Plan Application #277, Land Filling & Regrading Application #247, Christopher & Margaret Stefanoni, 57 Hoyt Street.** Proposing to construct 16 units of age-restricted housing (30% of which are proposed to be affordable housing under Section 8-30g of the Connecticut General Statutes) in a new building with associated parking and regrading, and to perform related site development activities.

Mr. Olvany recused himself from participation in this matter and departed the meeting room.

Mr. Spain said that as many as seven hearing sessions have been held on the remand portion of this site development. There is a memo from the applicant about the issues still in dispute, and those not in dispute. Mr. Cunningham said that it seems the Commission has three choices. They can: approve the application as it is submitted; approve it with modifications; or approve it as originally approved with no change as a result of the remand. He did not think the Commission had the option of denying the application.

Mr. Spain said that the judge originally remanded the matter back to the Commission to discuss traffic safety issues only. Then a petition was submitted and approved by the Court to broaden the issues of the remand to include fire safety. He said that the question now is whether the Commission will modify the original decision as a result of the remand process and the additional information that has been submitted. That information includes traffic, fire safety, the driveway location and the revised site plan which changes the driveway location and parking layout. Mr. DiDonna said that if the previously required Department of Transportation (DOT) bypass area is no longer required by them, there are still issues about the speed of traffic on the road, turning movements by vehicles into and out of the site, sight lines, and other safety related matters.

Mr. Cunningham said that it might not be a convincing argument that safety is adequately addressed because all they have done is delete the turning area. The Fire Marshal recommended and added a fire hydrant per the Fire Marshal recommendation. He said it might be possible to leave the original decision intact and maybe only require that the driveway be relocated slightly.

Ms. Cameron said that safety is a key issue. The density may be too great for safety purposes. She noted that there is no off-site parking to allow for deliveries and visitors. Maybe if there were only 4 units, the likelihood of deliveries or visitors would be substantially less than if there were 16 units. She said that sight line concerns are still critical. The safe place to cross Hoyt Street is not at this property. Hoyt Street has 12,500+/- vehicles trips per day with an approximate speed of 40 miles per hour. She said that most residents would have to drive to and from the site because there could be very little pedestrian access to and from the property. She said that there should also be more green space even if it is emergency or overflow parking or space where snow can be plowed in the winter.

Ms. Cameron said that the Fire Marshal recommendations should be satisfied, not reduced or waived just because the applicant thinks so. She understands that if the Commission reduces the number of units then the applicant must prove that the reduced number is not feasible and the Commission must prove that the reduced number is necessary due to safety.

Mr. DiDonna said that safety issues and concerns are paramount. He said that traffic safety studies have been discussed. He said that the argument that the number of accidents is not high considering

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 10 OF 11

the volume of traffic does not make sense to him because the number of accidents does seem to be significant and adding more units to the area creates more traffic. It is accepted that the general speed of traffic in the area is about 40 miles per hour, which is about 15 miles over the posted speed limit. There is a bend in the street to the north of the site and that impacts the visibility of patrons and motor vehicles in the area. He said that the claim that the line of sight is approximately 530 feet is not really a straight line. He said that his observations regarding crossing the street by pedestrians is dangerous. He even noted that there are 11 documented incidents on Hoyt Street between Echo Drive and Holmes School to the south. He said that this is a very sensitive, risky area, and that less units being created and more on-site parking being created would be safer than having a greater number of units and less extra parking spaces for visitors and deliveries. He said that moving the driveway farther to the south should be a requirement. Mr. DiDonna said that the Fire Marshal recommendations should be respected and having the 15 foot cleared area for ladder access on the south and east sides are important. He said that the applicant says that the open space area to the east of the site to be used as access; however, it is not physically open area due to large trees along the border that would interfere with ladder access. The applicant says that there are no trees shown on the map in the area and that there would be no hindrance of access yet his on-site observations lead him to disagree with that claim. He said that access on the south side of the building is restricted by the neighbor's property and the possibility that the neighbor could install a fence and trees and the stated intention of the neighbor to install a fence to create privacy from this very large proposed building. He said the practical access on the south side of the building will be 5 +/- feet not 15 feet as recommended by the Fire Marshal. He said that the Fire Marshall did not suggest the 15 foot wide access way, he requires it. Mr. DiDonna said that he had reviewed the deed restrictions of the open space. He said there has been no declaratory judgment that he knows of to clarify anything. He said the open space should not be relied on for anything regarding safety access.

Mr. Voigt said that the Department of Transportation originally required a bypass area for southbound traffic on Hoyt Street. They then withdrew that requirement with no explanation of why they took that action. It has never been explained by any traffic expert why it would be better not to have a bypass area for so many units. He said having a 16 unit development increases the likelihood of an accident by 16 times compared to the construction of a single family house on this property for which it is zoned. He said that there will be no extra off street parking and no safe on street parking in its vicinity. He said that the Fire Marshal requirements should not be disregarded. If the Fire Marshal wants 15 foot wide access to the building, it needs to be required by the Commission. If the Fire Marshal does not require such access on other sites, due to their different characteristics and other issues, then so be it. The Fire Marshal's requirements regarding other properties are not relevant to the pending application. Mr. Voigt noted that the neighbors concern about the driveway and the location of the property line need to be addressed. He did not think that 16 units would be the appropriate number and density of development.

Mr. Spain said that the bypass issue, traffic safety and pedestrian safety are all serious concerns. In 2010, the DOT called for a bypass area for the proposed development of 16 units. This would facilitate vehicles traveling southbound on Hoyt Street to be able to safely turn into the site. He said that concern is real and it has not gone away, even if the DOT requirement has changed. The proposed development will increase the amount of traffic and it is known that speed in the area is an issue. He said that the State DOT does not actually issue a permit to a property owner until local approvals have been granted. The Planning & Zoning Commission realized that during the original application process and reduced the number of units of the development to four so that the DOT did not need to

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
OCTOBER 15, 2013  
PAGE 11 OF 11

require a bypass area. Now the DOT has eliminated their requirement for the bypass area even up to 16 units. Mr. Spain said that cars traveling on Hoyt Street below the speed limit for cars entering or exiting the site; however, cars on the street do routinely travel faster than the posted speed limit. He said that the illustrated sight line to the north of the property is not straight. It is curved and that creates a problem. It also assumes that a driver will see across or over a bulge. He said that he has visited the site and the actual sight line is shorter than as depicted on the maps. He said that you cannot see past Edmond Street from the site. He cannot see the street itself, he can only see the sign which is above the level of the street. By his reckoning the sight distance to the north is really 228 to 270 feet when seeing from the site. This is less distance than would be required for the 35 mile per hour calculations. He suspects that rear end collisions would become likely due to the limited sight line. He said that Hoyt Street is a narrow road for an arterial road and that modifying the intensity of the use should be considered by the Commission. If the 16 units are developed then 5 of the units would have to be affordable housing units; if 8 units are developed then 3 of the units would have to be affordable. This would result in two less affordable housing units but a much safer condition because there would be less traffic generated by the proposed development. Mr. Spain said that the driveway does need to be moved to the south, at least as far as proposed. He said that the Fire Marshal has had extensive input prior to the first decision and that the access area is critical for fire fighter personnel and emergency responders. He noted that at this particular property, no staff would be on the site to assist the residents. There are differences between this proposed building and other examples cited by the applicant. One noted difference is significant distance from the nearest fire station to this building compared to the other buildings. Also there is a building design and height difference. The other sites allow fire trucks and ladders on all sides of the building. He did not feel it would be appropriate for the fire safety findings and requirements to be changed compared to the previous proposal. If the number of units is reduced then the size of the building can be reduced which will provide more fire safety access and it also addresses the limited amount of on-site parking. He said there should also be greater space from the proposed building to the open space area and reducing the number of units in the building with the size of the building also accomplishes this.

Ms. Cameron questions how many units should be approved and whether the Commission should specify. Mr. Spain said that the sight line report is not completely reliable based on his site observations. The Commission agreed that they would need to continue the discussion at a future meeting.

There being no further business the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Ms. Cameron, seconded by Mr. Cunningham and unanimously approved. The meeting was adjourned at 11:22 P.M.

Respectfully submitted,

Jeremy Ginsberg  
Planning & Zoning Director

David J. Keating  
Assistant Planning & Zoning Director